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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/891,773	06/26/2001	Girish V. Prabhu	80099WFN	2700
7590	01/03/2006		EXAMINER	
Thomas H. Close Patent Legal Staff Eastman Kodak Company 343 State Street Rochester, NY 14650-2201			ROLLINS, ROSILAND STACIE	
			ART UNIT	PAPER NUMBER
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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/891,773
Filing Date: June 26, 2001
Appellant(s): PRABHU, GIRISH V.

MAILED
JAN 03 2006
Group 3700

Susan L. Parulski
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed August 25, 2005 appealing from the Office action mailed March 23, 2005.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

The copy of the appealed claims contained in the Appendix to the brief is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6026322

Korenman et al.

02-200

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-17 are rejected under 35 U.S.C. 102(e) as being anticipated by Korenman et al. '322. Korenman et al. disclose an apparatus for facilitating management by an individual of a physiological and/or psychological state of the individual comprising a display for a set of images allowing an individual to show the individual chosen by the individual to one's self (col. 4 line 62) and a device for allowing the individual to choose images from the set of images (col. 4 lines 59-60).

(10) Response to Argument

Applicant's arguments filed August 25, 2005 have been fully considered but they are not persuasive.

Applicant argues that Korenman's images are not chosen by the individual and that Korenman's images are not based on cognitive decisions relating to connectedness, valence and arousal and on biometric analysis. A set of images chosen by the individual to one's self wherein said set of images are based on a personalized image profile based on cognitive decisions relating to connectedness,

valence and arousal and on biometric analysis are not positively recited as structural limitations in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The claims as written only require a display for the set of images and a device for allowing an individual to chose images.

In response to applicant's argument that Korenman does not teach a device for creating a personalized image response profile for the individual and a selector for selecting a set of images from an image library which include characteristics that match the preferred characteristics of the personalized preferred image response profile, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. Korenman is in fact capable of creating a personalized image response profile as indicated in col. 3 lines 47-51, selecting a second set of images as disclosed in col. 4 lines 58-65 and displaying the selected second set of images (see col. 4 line 66- col. 5 line 34).

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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